

House Bill 1328

By: Representatives Lane of the 167th and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to upwardly adjust certain fees to account for inflation and repeal certain fees assessed by the sheriff and the superior, probate, and magistrate courts; to amend Code Section 14-10-4 and Part 3 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to formation of professional associations and rural telephone cooperatives, respectively, so as to correct cross-references; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising paragraph (2) of subsection (e) and subsections (g) and (h) of Code Section 15-6-77, relating to fees for superior court, as follows:

"(2) Except as provided in paragraphs (3) and (4) of this subsection, the total sum for all services rendered by the clerk of the superior court through entry of judgment in civil cases shall be ~~\$58.00~~ \$91.00. Such sum shall not be required if the party desiring to file such case or proceeding is unable, because of his indigence, to pay such sum and such party files with the clerk an affidavit to such effect, as provided by law. Nothing contained in this subsection shall be deemed to require advance payment of such sum by the state, its agencies, or political subdivisions."

"(g) Miscellaneous fees:

- (1) Recording any instrument or writing, fee not otherwise specified, first page. \$ 5.00
- Each page, after the first. 2.00
- (2) Uncertified copies of documents, if no assistance is required from the office of the clerk of superior court, per page. ~~.25~~ .50

26	Uncertified copies, if assistance is required.....	1.00
27	Uncertified copies, if transmitted telephonically or electronically, first page	2.50
28	Each page, after the first.....	1.00
29	(3) Uncertified copies of documents, drawings, or plats, copy larger than	
30	8.5 x 14 inches.	2.00
31	(4) Certification or exemplification of record, including certificates and	
32	seals, first page.....	2.50
33	Each page, after the first.....	.50
34	(5) Clerk's certificate.....	1.00
35	(6) Court's seal.....	1.00
36	(7) The clerk may provide computer data or computer generated printouts	
37	of public records subject to disclosure maintained on computer by, or	
38	available to, the clerk, for each page or partial page of printed data or copies	
39	of such or its equivalent.	2.50
40	Nothing in this paragraph shall be construed to require any clerk to provide	
41	computer generated reports nor shall any clerk be required to prepare custom	
42	or individualized computer compilations or reports for any person or entity	
43	which would require preparation of a computer program which is not a	
44	standard existing computer program in use by the clerk. The clerk shall not	
45	be required to permit access to, or to provide copies of, copyrighted	
46	computer programs or any other computer programs in violation of any	
47	software license agreement or containing confidential records otherwise	
48	excluded or exempted by this Code section or any other applicable law.	
49	(8) Issuing certificate of pending or unsatisfied judgment, as provided in	
50	Code Section 40-9-40.....	3.00
51	(9) Issuing certificate of appointment and reappointment to notaries public,	
52	as provided by Code Section 45-17-4.	13.00 <u>20.00</u>
53	(10) Registering and filing trade names pursuant to Code Section 10-1-490	8.00 <u>13.00</u>
54	(11) Issuing subpoena, signed and sealed, notwithstanding subsection (e) of	
55	this Code section, each.....	1.00 <u>2.00</u>
56	(12) Preparation of record and transcript to the Supreme Court and Court of	
57	Appeals, per page.....	1.50 <u>8.00</u>
58	Where a transcript of the evidence and proceedings is filed with the clerk and	
59	does not require recopying, the clerk shall not receive the fee herein	
60	prescribed with respect to such transcript but shall receive, for filing and	
61	transmission of such transcript, a fee of.....	5.00 <u>34.00</u>

62	(13) <u>Reserved.</u> Issuing jury scrip or check, each	.30
63	(14) For each day of service in attendance upon the courts.	50.00
64	The per diem attendance upon the courts shall be paid from the treasury of	
65	the respective counties of this state only to clerks who are on a fee system of	
66	compensation. <u>Reserved.</u>	
67	(15) For performing the duties required of them by Article 2 of Chapter 2 of	
68	Title 44, the clerks shall receive the same sums as in civil cases.	
69	(16) For performing the duties required of them by Article 1 of Chapter 9A	
70	of Title 14, the 'Uniform Limited Partnership Act,' and for filing statements	
71	of partnership pursuant to Code Section 14-8-10.1, the clerks shall receive	
72	the sums as in civil cases.	
73	(17) Filing incorporation proceedings except for corporation for which filing	
74	procedures are governed by Chapter 2 of Title 14:	
75	(A) Articles of incorporation	20.00
76	(B) Articles of amendment	20.00
77	(C) Restated articles	20.00
78	(D) Merger	20.00
79	(E) Dissolution	20.00
80	(F) Involuntary dissolution	no fee
81	(G) Consolidation and merger	20.00
82	(H) Certificate of election to dissolve	20.00
83	(I) Order approving change of principal office	no fee
84	(J) Articles of incorporation as required by Code Section 46-5-100	20.00
85	(h) Fees in criminal cases:	
86	(1) Entering and docketing bills of indictment, presentments, no-bills,	\$ 3.00
87	accusations	
88	(2) <u>Reserved.</u> Issuing and mailing first notice of arraignment pursuant to Code	
89	Section 17-7-91	1.00
90	(3) <u>Reserved.</u> Affidavit of custodian, filing and transmittal pursuant to Code	
91	Section 17-10-12	1.00
92	(4) <u>Reserved.</u> Preparation and transmission of defendant's personal history and	
93	related documents, as provided in Code Section 42-5-50	5.00
94	(5) <u>Reserved.</u>	

(6) Preparation and furnishing copy of the record of appeal in criminal cases where accused was convicted of capital felony, in accordance with Code Section 5-6-43, per page... ~~1.50~~ 3.00
 Clerk's certificate. 1.00
 The clerk shall not receive compensation for the transcript of evidence and proceedings.
 (7) When costs are assessed by the court the minimum amount assessed as court costs in the disposition of any criminal case in the superior court shall be \$100.00. Any surcharge provided for by law shall be in addition to such sum."

SECTION 2.

Said title is further amended by revising paragraph (1) of subsection (e) and subsections (f) through (k) of Code Section 15-9-60, relating to costs for probate court, as follows:

"(1) Except as otherwise provided, the cost in an initial proceeding regarding the estate of a decedent or of a missing individual believed to be dead shall be ~~\$90.00~~ \$109.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such initial proceedings, exclusive of recording charges;"

"(f) Costs in minor guardianship matters:

(1) Except as otherwise provided, the cost in a proceeding regarding the person, property, or person and property of a minor shall be ~~\$60.00~~ \$73.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such proceeding, exclusive of recording charges, including, but not necessarily limited to, the following proceedings: petition for temporary letters of guardianship of the person of a minor; petition for letters of guardianship of person, property, or person and property of a minor by person other than natural guardian; petition for letters of guardianship of property of a minor, by natural guardian, with bond — personal property over \$5,000.00; petition for order that natural guardian not be required to become legally qualified guardian of the property; application of guardian for letters of dismission; or any other proceeding by which the jurisdiction of the probate court is first invoked with regard to the person, property, or person and property of a minor; and

(2) Except as otherwise provided, the costs for all services rendered by the judge or clerk of the probate court shall be as set forth below for the following proceedings, pleadings, or documents regarding the person, property, or person and property of a minor, exclusive of recording charges:

(A) Petition of guardian for leave to sell. ~~\$ 50.00~~ 61.00

(B) Petition to compromise doubtful claim of minor. ~~50.00~~ 61.00

130	(C) Petition for leave to encroach on corpus.	25.00 <u>30.00</u>
131	(D) Petition to change accounting period.	25.00
132	(E) Inventory or annual, intermediate, or final return (each).	25.00 <u>30.00</u>
133	(F) Petition or motion for attorneys' fees.	50.00 <u>61.00</u>
134	(G) Petition to terminate temporary guardianship of minor.	25.00 <u>30.00</u>
135	(H) Any other petition, application, motion, or other pleading for which	
136	no specific cost is set forth in this Code section filed regarding an	
137	existing guardianship of a minor.	25.00 <u>30.00</u>
138	(g) Costs in adult guardianship matters:	
139	(1) Except as otherwise provided, the cost in a proceeding regarding the person,	
140	property, or person and property of an adult alleged to be incapacitated shall be \$150.00	
141	for all services rendered by the judge or clerk of the probate court through the entry of	
142	the final order on such proceeding, exclusive of recording charges, including, but not	
143	necessarily limited to, the following proceedings: petition for the appointment of an	
144	emergency guardian for an alleged gravely incapacitated adult; petition for the	
145	appointment of an emergency and permanent guardian for an alleged gravely	
146	incapacitated adult; petition for the appointment of a guardian for an alleged incapacitated	
147	adult; or any other proceeding by which the jurisdiction of the probate court is first	
148	invoked with regard to an adult alleged to be incapacitated; and	
149	(2) Except as otherwise provided, the cost for all services rendered by the judge or clerk	
150	of the probate court shall be as set forth below for the following proceedings, pleadings,	
151	or documents regarding the person, property, or person and property of an incapacitated	
152	adult, exclusive of recording charges:	
153	(A) Petition of guardian for leave to sell.	\$ 50.00 <u>61.00</u>
154	(B) Petition to compromise doubtful claim.	50.00 <u>61.00</u>
155	(C) Petition for leave to encroach on corpus.	25.00 <u>30.00</u>
156	(D) Petition to change accounting period.	25.00
157	(E) Inventory or annual, intermediate, or final return (each).	25.00 <u>30.00</u>
158	(F) Petition or motion for attorneys' fees.	50.00 <u>61.00</u>
159	(G) Petition to terminate or modify guardianship of incapacitated	
160	adult.	50.00 <u>61.00</u>
161	(H) Application of guardian for letters of dismission.	60.00 <u>73.00</u>
162	(I) Any other petition, application, motion, or other pleading for which	
163	no specific cost is set forth in this Code section filed regarding an	
164	existing guardianship of an adult.	50.00 <u>61.00</u>

(h) Costs in matters involving sterilization, involuntary treatment, habilitation, or temporary placement:

(1) Except as otherwise provided, the cost in a proceeding filed under Chapter 20 of Title 31, Chapter 36A of Title 31, or Chapter 3, 4, or 7 of Title 37 shall be ~~\$75.00~~ \$91.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order on such proceeding, exclusive of recording charges;

(2) There shall be no cost assessed for the receipt and consideration of affidavits in support of an order to apprehend under Part 1 of Article 3 of Chapter 3 of Title 37 or Part 1 of Article 3 of Chapter 7 of Title 37 or for the issuance of the order to apprehend; and

(3) There shall be no cost assessed for the receipt and consideration of a petition in support of an order to apprehend under Part 3 of Article 3 of Chapter 3 of Title 37 or Part 3 of Article 3 of Chapter 7 of Title 37 or for the issuance of the order to apprehend a patient alleged to be in noncompliance with an involuntary outpatient treatment order.

(i) Costs for hearings in contested matters:

(1) For conducting trials of contested matters or for formal hearing on the denial of an application for a firearms license before the probate court, the cost shall be ~~\$25.00~~ \$30.00 per one-half day or portion thereof;

(2) There shall be no additional cost for the initial hearing in adult guardianship matters or in matters involving sterilization, involuntary treatment, habilitation, or involuntary placement; and

(3) There shall be no cost for any hearing in an uncontested matter.

(j) Custodial accounts. For each account accepted by the judge of the probate court as custodian for a minor, incapacitated adult, or missing or unknown heir or beneficiary, there shall be a one-time fee of 8 percent of the fund deducted from the fund when first accepted.

(k) Miscellaneous costs. Except as otherwise provided, the judge or clerk of the probate court shall be entitled to the following costs for the proceedings, pleading, documents, or services itemized:

(1) Application for writ of habeas corpus. \$ 75.00

(2) Petition to establish lost papers, exclusive of recording charges. 50.00

(3) Petition for or declaration of exemptions. 25.00

(4) Petition to change birth certificate. ~~60.00~~ 73.00

(5) For all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for any application or petition by which the jurisdiction of the probate court is first invoked for which no cost is set forth in this Code section or other applicable law. ~~50.00~~ 61.00

201	(6) Issuance of any order, including a rule nisi, in any matter for which the	
202	costs set forth in this Code section do not include all services to be rendered	
203	by the judge or clerk of the probate court, exclusive of recording charges. 25.00 <u>30.00</u>	
204	(7) Motions, amendments, or other pleadings filed in any matter for which	
205	the cost set forth in this Code section does not include all services to be	
206	rendered by the judge or clerk of the probate court, exclusive of recording	
207	charges, and no other cost is set forth in this Code section. 10.00 <u>12.00</u>	
208	(8) For processing appeals to superior court, exclusive of recording	
209	charges. 25.00 <u>30.00</u>	
210	(9) For issuance of writ of fieri facias (fi.fa.). 10.00	
211	(10) <u>Reserved.</u> For issuance of permit to discharge explosives 25.00	
212	(11) For issuance of permit to discharge fireworks.. . . . 25.00 <u>30.00</u>	
213	(12) Application for firearms license (exclusive of fees charged by	
214	other agencies for the examination of criminal records and mental	
215	health records). 15.00 <u>18.00</u>	
216	(13) For issuance of a replacement firearms license. 5.00 <u>6.00</u>	
217	(14) Application for marriage license if the applicants have completed	
218	premarital education pursuant to Code Section 19-3-30.1. No fee	
219	(14.1) Application for a marriage license if the applicants have not	
220	completed premarital education pursuant to Code Section 19-3-30.1. 35.00 <u>38.00</u>	
221	(15) For the safekeeping of a will. 10.00 <u>12.00</u>	
222	(16) For issuance of a veteran's license. No fee	
223	(17) For issuance of a peddler's license. 10.00 <u>12.00</u>	
224	(18) For issuance of a certificate of residency. 10.00	
225	(19) Registration of junk dealer. 10.00	
226	(20) Certification of publication of application for insurance company	
227	charter. 10.00	
228	(21) Recording of marks and brands, each. 10.00 <u>12.00</u>	
229	(22) Exemplification. 10.00 <u>12.00</u>	
230	(23) Certification under seal of copies (plus copy cost). 5.00 <u>6.00</u>	
231	(24) Certified copies of letters of personal representative, temporary	
232	administrator, or guardian, each, including copy cost. 5.00 <u>6.00</u>	
233	(25) For issuance of a subpoena, each. 5.00 <u>6.00</u>	
234	(26) For filing and recording of oath or bond of any official, officer, or	
235	employee of any municipality or authority within the county, each. 5.00 <u>6.00</u>	

236	(27) For filing and recording of oath or bond of county official or officer.	No fee
237	(28) For examination of records or files by employee of the probate court to	
238	provide abstract of information contained therein or to provide copies	
239	therefrom, per estate or name.....	5.00 <u>6.00</u>
240	(29) Recording, per page.....	2.00
241	(30) Copies, per page.....	0.25 <u>1.00</u> "

242 **SECTION 3.**

243 Said title is further amended by revising Code Section 15-10-80, relating to filing fees,
244 service of process costs, and other costs in magistrate court, as follows:

245 "15-10-80.

246 (a) Upon filing any civil action the plaintiff shall pay a filing deposit as established by
247 local court rule not to exceed ~~\$20.00~~ \$43.00 which shall cover all costs of the action except
248 service of process.

249 (b) Upon filing any civil action the plaintiff shall pay the actual cost of serving each party
250 required to be served but not more than the amount of the fee charged by sheriffs for
251 serving process for each party to be served.

252 (c) For issuing a writ of fieri facias the fee charged shall be ~~\$2.00~~ \$4.00 which shall be
253 paid by the person requesting the same. Such fee shall be charged and collected
254 contemporaneously with or prior to the issuance of the writ of fieri facias but not before the
255 entry of judgment in the action.

256 (d) As between the parties, costs shall be taxed against the losing party."

257 **SECTION 4.**

258 Said title is further amended by revising Code Section 15-10-81, relating to costs upon
259 conviction of violation of ordinance, as follows:

260 "15-10-81.

261 In cases of conviction of violation of county ordinances, costs of not more than ~~\$30.00~~
262 \$63.00 may be taxed against the defendant."

263 **SECTION 5.**

264 Said title is further amended by revising Code Section 15-10-82, relating to hearing fee on
265 application for search or arrest warrant or deposit account fraud citation, as follows:

266 "15-10-82.

267 For hearing an application for an arrest or search warrant or deposit account fraud citation,
268 the fee charged shall not exceed ~~\$10.00~~ \$16.00, but this fee may be waived by the issuing

magistrate if he or she finds that because of the financial circumstances of the party applying for the warrant or citation or for other reasons this fee should not be charged in justice, provided that no fee shall be assessed against the alleged victim of a violation of Code Section 16-5-90, 16-5-91, 16-6-1, 16-6-2, 16-6-3, 16-6-4, 16-6-5.1, 16-6-22.1, or 16-6-22.2 or against the alleged victim of any domestic violence offense for costs associated with the filing of criminal charges against the stalking offender, sexual offender, or domestic violence offender or for the issuance or service of a warrant, protective order, or witness subpoena arising from the incident of stalking, sexual assault, or domestic violence."

SECTION 6.

Said title is further amended by revising subsections (b) and (c) of Code Section 15-16-21, relating to fees for sheriff's services, as follows:

"(b) For the services of the sheriff in civil cases, the following fees shall be charged:

- | | |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| (1) Serving copy of process and returning original, per copy. | \$ 25.00 <u>39.00</u> |
| (2) Action from another county, to be paid in advance. | 25.00 <u>38.00</u> |
| (3) Summoning each witness. | 6.00 <u>9.00</u> |
| (4) Each levy or writ of fieri facias. | 25.00 <u>38.00</u> |
| (5) Search and return of nulla bona. | 13.00 <u>20.00</u> |
| (6) Serving summons of garnishment or rule against garnishee. | 25.00 <u>38.00</u> |
| If more than one, for each additional copy. | 6.00 |
| (7) Commissions on sales of property: | |
| On sums of \$50.00 or less. | 8% |
| On excess above \$50.00 up to \$550.00. | 6% |
| For all sums exceeding \$550.00, on excess. | 3% |
| No commissions shall be charged unless property is actually sold. | |
| (8) Making out and executing titles to land. | 25.00 <u>38.00</u> |
| If presented by purchaser. | 13.00 <u>20.00</u> |
| (9) Executing bill of sale to personal property, when demanded by purchaser. | 13.00 <u>20.00</u> |
| (10) Forthcoming bonds. | 13.00 |
| (11) Serving process against tenant over or intruder upon land to dispossess them. | 25.00 <u>38.00</u> |
| (12) For dispossessing tenant or intruder. | 25.00 <u>38.00</u> |
| (13) Taking and returning counter-affidavit when summary process to dispossess tenant or intruder is resisted. | 13.00 <u>20.00</u> |

304	(14) Settling each execution in his hands, settled without sale.....	13.00 <u>20.00</u>
305	(15) Levying an attachment.....	25.00 <u>38.00</u>
306	(16) <u>Reserved.</u> Following property out of county with attachment, for	
307	every mile going and returning	.21
308	(17) <u>Reserved.</u> Attending superior, state, or city courts, per day	20.00
309	(18) <u>Reserved.</u> Probate courts, per day	15.00
310	(19) <u>Reserved.</u> At elections as required by law, each day	20.00
311	(20) Collecting tax fi. fas. \$100.00 or less, each.....	5.00 <u>8.00</u>
312	(21) Collecting tax fi. fas. over \$100.00, each.	10.00 <u>16.00</u>
313	(c) For executing and returning any warrant or for serving a citation, the fees to which a	
314	sheriff is entitled as provided in this subsection shall be paid at the disposition of the	
315	criminal case. For summoning witnesses or taking bonds in criminal cases, the fees to	
316	which a sheriff is entitled as provided in this subsection shall be paid in advance prior to	
317	the sheriff's rendering such service. For the services of the sheriff in criminal cases, the	
318	following fees shall be charged:	
319	(1) Removing prisoner when habeas corpus is sought for his relief.....	\$ 15.00
320	(2) Removing prisoners under habeas corpus when no mileage is paid, per	15.00
321	day.	
322	(3) Attending persons taken by warrant to judge's chamber, for each time.	4.50
323	(4) Conducting prisoner before judge or court to and from jail.	4.50
324	(5) Executing and returning any warrant.....	25.00
325	(6) Serving any citation issued pursuant to Article 10 of Chapter 10 of this	
326	title, relating to bad check prosecutions or any warrant.....	25.00
327	(7) Summoning each witness.	6.00 <u>9.00</u>
328	(8) Taking bonds in criminal cases.	13.00 <u>20.00</u>
329	(9) Executing a warrant of escape.....	10.00
330	(10) Service in every criminal case before a judge or a judge and jury. ...	10.00"

SECTION 7.

Code Section 14-10-4 of the Official Code of Georgia Annotated, relating to formation of professional associations, is amended by revising paragraph (2) of subsection (a) as follows:

"(2) RECORDING; FEES. The clerk shall record the articles of association and any amendments thereto or instruments of dissolution thereof in the same manner as required for articles of incorporation and shall receive a fee as required by paragraph (17) of subsection (g) of Code Section 15-6-77. Articles shall not be required to be published or

recorded elsewhere. Such record of the articles, when so recorded, shall be notice of the articles to the world as well as to all parties dealing with such association."

SECTION 8.

Part 3 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to rural telephone cooperatives, is amended by revising Code Section 46-5-70, relating to filing of articles with the clerk of court, as follows:

"46-5-70.

The applicants shall file the application, including the articles of incorporation and the order of the judge thereon, in the office of the clerk of the superior court of the county in which the principal office of the cooperative is to be located, ~~and shall concurrently therewith deposit with and pay to said clerk the fee provided for in Code Section 46-5-100."~~

SECTION 9.

Said part is further amended by revising Code Section 46-5-73, relating to duty of clerk to deliver to applicants certified copies of articles and of order thereon, as follows:

"46-5-73.

Upon the filing of the articles of incorporation and the order of the judge thereon with the clerk of the superior court ~~and the fee being paid as required by Code Section 46-5-70~~, the clerk shall forthwith deliver to the applicants or their attorney two certified copies of the articles of incorporation and the order of the judge ~~thereon~~, and the filing of the clerk thereon ~~and receipt for the cost which has been paid to the clerk."~~

SECTION 10.

Said part is further amended by revising Code Section 46-5-100, relating to fees for rural telephone cooperatives, as follows:

"46-5-100.

~~(a) Each cooperative shall be charged by the clerk of the superior court the fee as provided in subsection (g) of Code Section 15-6-77 for the filing of incorporation proceedings.~~

~~(b) Each cooperative shall be charged by the Secretary of State the fees specified in Code Section 14-2-122 for the filing of documents and issuance of certificates."~~

SECTION 11.

All laws and parts of laws in conflict with this Act are repealed.